

EMERGENCY Chapter NR 300

TIME LIMITS AND FEES FOR WATERWAY AND WETLAND PERMIT DECISIONS

NR 300.01 Purpose. This chapter is developed pursuant to ss. 30.28, 31.39, 281.22, 281.36 and 281.37, Stats., to establish procedures for charging basic and supplemental fees for permits, approvals, determinations and hearings for projects in navigable waters and wetlands and to establish time limits for permits, approvals and determinations for projects in navigable waters and wetlands..

NR 300.02 Applicability. This chapter is applicable to any application for a permit, approval or determination pursuant to ss. 30.10 to 30.27, 31.02 to 31.38, 281.22, 281.36 and 281.37, Stats.

NR 300.03 Definitions. In this chapter: (1) "Application" means a form prescribed by the department to be completed by the owner, applicant or authorized agent for an activity which requires a permit or approval from the department, and any other information which can reasonably be required from an applicant and which the department needs to make a decision under applicable provisions of law, such as plans, property deeds, technical analysis or, where required pursuant to s. 23.11 (5), Stats., an adequate environmental impact report.

(3) "Decision" means written permission, denial of permission or dismissal of an application in accordance with procedural and substantive requirements of law.

(4) "Department" means the department of natural resources.

(5) "EA" means an environmental assessment as defined in s. NR 150.02 (11)

(6) "EIR" means environmental impact report as defined in s. NR 150.02 (9)

(7) "EIS" means environmental impact statement as defined in s. NR 150.02 (10).

(8) "Field investigation" means a physical inspection of the location of a proposed action requiring a permit or approval under ch. 30 or 31, Stats., or s. 281.22, Stats., and surrounding areas that may be directly or indirectly affected by the proposed action, carried out by an employee or agent of the department for the purpose of determining whether the proposed action meets applicable requirements of law.

(9) "Permit, approval or determination" means a permit, approval or determination pursuant to ss. 30.10 to 30.27, 31.02 to 31.38, 281.22, 281.36 and 281.37, Stats.

(10) "Working day" means each day except Saturday, Sunday, January 1, the third Monday in January, the last Monday in May, July 4, the first Monday in September, the 4th Thursday in November, December 24, December 25 and December 31. If January 1, July 4, December 24, December 25 or December 31 falls on either a Saturday or a Sunday, the day designated as a paid holiday in lieu of the specific date is not a working day.

NR 300.04 Time limits. (1) Except as provided in s. NR 300.05, time limits specified in sub. (4) shall be applied to decisions on fully completed applications for the water regulatory permits, approvals or determinations listed in s. NR 300.02.

(2) For any permit, approval or determination made pursuant to ss. 30.10 to 30.27, 281.36 or 281.37, Stats., the department shall initially determine whether a complete application has been submitted and, no later than 30 calendar days after the application is submitted, notify the applicant in writing about the initial determination of completeness. For any permit, approval or determination made pursuant to s. 281.37, Stats., the department shall initially determine whether a complete application has been submitted and, no later than 30 calendar days after the application is submitted, notify the applicant

in writing about the initial determination of completeness. If the department determines that the application is incomplete, the notice shall state the reason for the determination and the specific items of information necessary to make the application complete. For any permit, approval or determination made pursuant to ss. 30.10 to 30.27 and 281.36, Stats., the department may not demand items of information that are not specified in the notice as a condition for determining whether the application is complete unless both the department and the applicant agree or unless the applicant makes material additions or alterations to the project for which the application has been submitted. An application may not be considered complete until the requirements of the Wisconsin environmental policy act, s. 1.11, Stats., have been met and until all information necessary for associated permits, such as Wisconsin pollution discharge elimination permits under ch. 283, Stats., has been submitted to the department.

(3) For any permit, approval or determination made pursuant to ss. 31.02 to 31.38, 281.22 and 281.37, Stats., the applicant shall submit as requested, at any time during the review process, additional information the department finds to be reasonably necessary for review of the application.

(4) For any permit, approval or determination listed in s. NR 300.02, a determination or decision shall be mailed to the applicant within the following time limits, or the report required by s. 227.116 (4), Stats., shall be submitted:

(a) The department shall initially determine whether a complete application has been submitted and, no later than 30 calendar days after the application is submitted, notify the applicant in writing about the initial determination of completeness. For individual permits, the department shall provide to the applicant a notice of complete application within 15 calendar days after the department determines that the application is complete.

(b) For determinations made pursuant to ss. 31.02 to 31.38, 281.22, 281.36 and 281.37, Stats., 120 calendar days.

(c) For all activities that meet the criteria listed in s. NR 103.08 (4) (c) 3. and that do not require authorization under ch. 30, Stats., the department shall make a final decision on an application within 60 working days of receipt of a complete application from the project proponent. The 60 working day limit does not apply if the department determines that weather conditions prevent the department from making a decision in that time frame.

(d) A person wishing to proceed with an activity that may be authorized by a general permit promulgated under s. 30.206, Stats., shall apply to the department, with written notification of the person's wish to proceed, not less than 30 calendar days before commencing the activity. If within 30 calendar days after a notification is received, the department does not inform the applicant that an individual permit is required, the activity will be considered to be authorized and the applicant may proceed without further notice.

(e) For determinations made for individual permits without a request for hearing pursuant to ss. 30.10 to 30.27, Stats., 105 calendar days.

(f) For determinations made for individual permits with a request for public hearing pursuant to ss. 30.10 to 30.27, Stats., 150 calendar days.

(g) For exemption determinations made pursuant to ss. 30.10 to 30.27, Stats., 15 calendar days.

NR 300.05 Exceptions to time limits. When any of the following conditions are met, the time limits in s. NR 300.04 are not applicable: (1) When a contested case hearing is required because a substantive written objection to the granting of a permit or approval by the department has been received in response to a public notice, or when a hearing is scheduled on the department's own motion, the department's decision shall be mailed to the applicant within 45 business days after completion of the hearing, including preparation of a transcript if necessary, and subsequent filings.

(2) When the department has determined, due to an impending enforcement action, that it will not process after-the-fact permits or approval applications in accordance with s. NR 301.04 (1).

(3) The time limits specified in s. NR 300.04 do not include the number of working days between any of the following:

(a) The date a decision is made by the department to prepare an EIS and the date a final determination is made that the department has complied with s. 1.11, Stats.

(b) The date a request is made to an applicant for additional information necessary for the department to issue a decision under the applicable statute and the date that information is received by the department.

(c) The date a class 1 legal notice is mailed by the department and the date the department receives satisfactory proof of publication of that notice from the applicant.

(d) November 1 of any calendar year and April 1 of the succeeding calendar year for applications received after October 1 if a field investigation is required before the department has adequate information to make a decision.

(e) If an exemption determination request is not made according to the procedures in s. NR 310.05 or the exemption determination request does not give consent to inspect, the 15 calendar day time limit does not apply.

(4) If the department determines pursuant to ch. NR 150 that an EA is required for compliance with s. 1.11, Stats., the time limits specified in s. NR 300.04 shall be increased by 60 working days.

(5) If the department's action on a requested permit, approval or determination is delayed or prevented by an order or decision of a court of law, the time limit specified in s. NR 300.04 shall be adjusted to conform to the court's decision or order.

(6) If the department's action on a requested permit, approval or determination is delayed or prevented by the action or failure to act of an agency or private party other than the department or the applicant, the time limit specified in s. NR 300.04 shall be adjusted accordingly.

NR 300.06 Fee processing. (1) FEE REQUIRED. The department shall charge a fee for permits or approvals. The permit or approval fee shall accompany the permit application or request for approval. Projects funded in whole or in part by any federal agency or state agency are exempt from fees. Except for federal or state agency dam projects, any construction, alteration, change in operation, transfer or abandonment of a dam requires a fee pursuant to s. 31.39 (3), Stats.

Note: Fees for general permits will be set at \$50.

(2) **BASIC FEES.** For fees charged for permits, approvals or determinations under ss. 30.10 to 30.205, 30.21 to 30.27, 31.02 to 31.185, 31.33 to 31.38, 281.22, 281.36 and 281.37, Stats., the department shall classify the types of permits, approvals or determinations based on the estimated time spent by the department in reviewing, investigating and making determinations whether to grant the permits or approvals. The fees are established as follows:

(a) For a permit or approval with an estimated time of 3 hours or less, the fee shall be \$50.

(b) For a permit or approval with an estimated time of more than 3 hours but not more than 9 hours, the fee shall be \$300.

(c) For a permit or approval with an estimated time of more than 9 hours, the fee shall be \$500.

(3) **SUPPLEMENTAL FEES.** When the applicant requests in writing that the permit be issued in a shorter time interval than the total time interval allowed in s. NR 300.04, the department shall respond in writing within 20 working days to state whether it can comply with the request. If the request to expedite the permit review is accepted by the department, the applicant shall submit \$2000 in supplemental fees for each expedited permit request which is accepted by the department, in addition to the applicable fees in sub. (2). If the department fails to make a decision on the completed application within the time limits requested, the department shall refund the supplemental fee.

(4) **REFUNDS.** The department shall refund a permit, approval or determination fee if the applicant withdraws the application before the department determines that the application for the permit or approval is complete. The department shall refund a permit or approval fee for permits, approvals or determinations issued under ss. 30.10 to 30.205, 30.21 to 30.27, 281.22, 281.36 and 281.37, Stats., if the department fails to make a determination on the application within the time limits specified in s. NR 300.04. These refunds will only be applied to complete applications for permits, approvals or determinations received on or after September 1, 2000. The department may not refund a permit or

approval fee after the department determines that the application is complete for permits or approvals issued under ss. 30.206, 31.02 to 31.38, Stats., or for any after-the-fact permit or approval applications.

(5) LATE APPLICATION FEE. If the applicant applies for a permit or requests an approval after the project is begun or after it is completed, the department shall charge an amount equal to twice the amount of the fee that it would have charged under this section.

(6) MULTIPLE FEES. If more than one fee is applicable to a project, the department shall charge only the highest fee of those that are applicable.